

## HAINS ANGERED BY DARRIN

A LIVE OF QUESTIONING THAT THE COURT CUT SHORT.

Under Cross-Examination the Defendant Witness Appears About as on the Previous Day—A Foreboding Hypothetical Question of Great Length.

The cross-examination of Thornton Hains as a witness in his own trial for the murder of William E. Annis, which had occupied practically all the session on Tuesday, continued through yesterday's session and still was unfinished when Justice Crane adjourned court at 5:30 o'clock in the afternoon. Special Prosecutor Darrin, however, promised the Court that the finishing up of the examination would take but a short time this morning. During the something more than six hours which the prisoner spent yesterday under the fire of Mr. Darrin's questions so little effect upon the defendant's previous story was evident as to render the day's work practically useless as far as the integrity of Thornton Hains's direct testimony was concerned.

The interest of the day centered in a move of the prosecution intended to impeach the defendant's previous testimony by suggesting improper things to his brother's wife while the Captain was absent in the Philippines, but since the defendant merely denied the charges made by Mr. Darrin in the form of questions, and the prosecutor denies any intention of producing Mrs. Claudia Hains to back up these hints, it is hard to see just where they came in, except for whatever effect their bare suggestion might have on the minds of the jury. The lawyers for the defense profess a great desire that Mrs. Hains be called by the State so that Mr. McIntyre may cross-examine her. This declared with Mr. Darrin seems to be unwilling to gratify, in spite of his introduction of the woman's charges in his questions.

Mr. Darrin resumed his cross-examination by asking about a dinner at Capt. Hains's house at Fort Hamilton just before the Captain left for the Philippines, when the defendant, Gen. Hains and Claudia Hains were present. "I may have been there," the witness replied. "Did you say at that dinner that the 'gang on Recreation' was trying to ruin your reputation?"

"Gang?" questioned the witness. "Gang on a magazine? I never said anything of the kind."

"And did Mrs. Hains say to you that you never had got over that automobile accident—that you were still sore on Annis?"

"No such conversation ever occurred."

"And did you say, 'I'll get even with him yet'?"

"I did not."

The defendant said he had never seen Annis at Fort Hamilton.

"Do you remember an occasion when a maid came into the house while you were with Mrs. Hains and said that Annis was outside in his automobile?"

"No, sir."

"And you said that you didn't want to meet him—that you would shoot him on sight?"

"I never said that."

"And did Mrs. Hains reply, 'Don't talk like that—I don't like it'?"

"Such a conversation never occurred."

"Did you on that same afternoon tell Mrs. Hains you had written her husband, your brother, about Annis?"

"I did not."

Mr. McIntyre interrupted to say that he thought Mrs. Hains ought to be put on the stand to testify to these things. The questions were allowed to stand, however, and Mr. Darrin resumed his questioning along the lines suggested to him by Mrs. Claudia Hains.

"Do you recall being at your brother's house while the Captain was away—about November 10, 1907?"

"I am quite certain that I did not go there then. I don't know what you are talking about."

"Did you ever after your brother went to the Philippines go to his house and say to Mrs. Hains, 'My God! Claudia, you look sweet! and grab her by the arm'?"

"No, sir."

The Court looked down at Mr. McIntyre when this question was asked, but the defendant's lawyer appeared content with the proceedings and said he would not object.

"Did you ever say to her, 'I would like to kiss you, only you are my brother's wife'?"

Thornton Hains turned to the Justice at this. "Your honor," he asked, "can't I be protected from such insults? I am here as a prisoner."

"No, you are here as a witness," the Court corrected him. "Your lawyer doesn't object, so you may answer."

"Then I never did say such a thing," the defendant replied hotly. It was evident that Mr. Darrin was getting him very sore, and that if this sort of thing were allowed to go on much longer there would be a lively clash.

"Did you ever go into Mrs. Hains's room when she was in her nightgown?"

Mr. McIntyre here took a hand and objected, the Court sustaining him. "I don't see how this question bears on the case," remarked Justice Crane. "I think it does," Mr. Darrin replied. "All right—show me," said the Court. Mr. Darrin did not accept the invitation, but put over another question of the same sort.

"Did you sit down on the side of her bed?"

Objection sustained.

"Did you ask her to go to a hotel in New York with you?"

Objection sustained. "We've had enough of this sort of thing," Justice Crane said. "I want no more questions of this kind, and Mr. Darrin returned to the case on trial. His next questions were whether the witness had had a conversation with Charles Libby, father of Mrs. Hains, at Fort Hamilton in August 1907, during which the defendant had said he was being discriminated against by certain magazines. The prisoner said he had seen Mr. Libby at that time but had not said the things attributed to him.

"Did you tell Mr. Libby that some one was playing you dirt?"

"I never used such an expression."

"Did you say that it was Will Annis and that you would kill him some day?"

"No. If I killed every magazine editor who had rejected my story I would have had a private graveyard," said the prisoner with a smile.

For the rest of the day the defendant-witness was compelled to go over his story of the murder of William E. Annis, Hains delving into every detail. Occasionally the witness had to fall back on the "I don't remember" answer he had used so much on Tuesday, and the prosecution would score.

Haven't you testified that you had frequent conversations with your brother between June 1 and August 15, 1907?"

"Yes, but he often didn't seem to understand me. He seemed in a daze most of the time."

"Did your brother look on the train that day going to Bay Side?"

"Very pale, dejected. His eyes were glassy, like the eyes of a snake. His nose, however, was good. The witness did not remember the details of the train ride to Bay Side.

"Is your memory poorer now than it was two days ago?" Mr. Darrin asked—one of the many times he has put that question to the witness.

"I have been ill—I can't remember a thing."

The witness replied that he did not see Mr. Annis as he got out of the train, and went over the meeting with Martin Straus, the cabman, and the ride to the

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chub. Mr. Darrin scored on two or three small points through this recital, but did not change the situation materially.

"Where were you when you heard the first shot?"

"I heard five or six shots together as I ran down the runway."

"Will you swear that you did not ask Funk where Annis was?"

"Before Annis was pointed out to me? I certainly will. If Mr. Funk testified that I asked him such a question he testified falsely. In answer to the question, 'How did the shot sound?' the prisoner said 'Like that,' and clapped his hands rather rapidly and in regular succession."

"Like a bunch of firecrackers?"

"No, sir, like regular firing—as a soldier would fire."

"A soldier of the Regular Army, you mean—not a member of the militia?"

The Justice's gavel answered this. Mr. Darrin then spent much time trying to pin the witness down to definite statements of time and distance, but the witness fell back on "I don't know" and forced the prosecutor to add "To the best of your recollection, or some such qualifying phrase, when he would answer readily enough. One of these answers was:

"To the best of my recollection the firing ceased about the time I landed on the roof."

"Did you hear any shot fired by Peter C. Hains after he came out from under the boom?"

"I don't remember any."

"So all the shots fired that day were fired behind the sail?"

"Yes, I think so."

Yes, the witness for the prosecution has testified that the final shot was fired through the sail. The witness also testified that he saw no one at all during the shooting—that his brother had been behind the sail. The prosecution's witnesses had told of seeing the Captain's body while the firing was going on.

When my brother rose up I saw a big man, John Tinning, as I have since learned, run across the boat and strike my brother. My brother's gun dropped to the floor, and my brother raised his hand to strike my brother again. I got there and jumped between them."

At this point Justice Crane called for the Captain's pistol—holster, magazine and all. Mr. McIntyre said he would rather have the magazine left out. "I presume it is empty," said the Court. It may be and it may not be," Mr. McIntyre replied.

Justice Crane asked a question or two on his own account, and when he had finished Mr. Darrin began:

"I want to ask the witness some questions."

"Aren't you doing it?" the Court broke in.

"I wanted to, but I understood the Court was asking questions."

"I was—and I have a right to and I won't take instructions from you, nor interference, either. Go on."

"The witness said he was asked: 'Who was menacing your brother most seriously at the moment you jumped in?'

"Tinning."

"And you didn't draw your gun on him?"

"No, sir."

"And you didn't wish the jury to understand that Mr. McIntyre pointed the Captain's gun at you?"

"He picked it up and the muzzle of it was pointed at me. I wasn't going to start a conversation with him about his intentions."

Mr. Darrin then wanted the witness to repeat what he had meant when he told Mr. Roberts "I probably saved your life." The witness said he meant that the Captain was crazy and he didn't know what he might have done—that he might have had half a dozen pistols or knives in his person for all he knew.

This appealed to Mr. Darrin's mood and he kept pounding on it until finally the prisoner explained, at some length and apparently that he had used the expression merely to indicate his lack of knowledge of what his brother had in his pockets.

"You never have been in fear of your life from your brother, have you?"

"I think I have testified that I was a little nervous once or twice."

Mr. Darrin repeated the question. "Don't remember," the witness replied, "I don't remember anybody or anything, I responded to the defendant, looking at the questioner as he meant it."

"Have you ever at any time since August 10, 1907, been in a room where when he got the gun with which he did the shooting?"

"No, sir."

"Has anybody told you he got it from the store of Schoverling, Daly & Gale a little before noon on the day of the shooting?"

"No, sir."

The witness said he had taken the Captain's service revolver from him after the confession because he was afraid the Captain would kill himself. He also had taken the Captain's razor, compelling him to shave with a safety razor.

"Did not the action of your brother in throwing off your hold on his arm make you suspicious of his intentions toward Annis?"

"I can't remember that I had any particular suspicions. I didn't want them to make me suspicious."

It was then 5:30 and court was adjourned until this morning.

Justice Crane warned the lawyers that both sides yesterday that they must have all evidence in this week even if night sessions were necessary to do it. One of the things yet to come is the hypothetical question which is being asked by Mr. Darrin and which is being asked by Mr. McIntyre to submit to his experts, of whom by the way he may call only one, Dr. L. S. Manson. This question is reported to contain some 100 words. Mr. McIntyre yesterday agreed to submit this hypothetical question to Mr. Darrin and to the Court before putting it to his experts.

There was rain at some points in New England yesterday, caused by the storm from Ontario, which had its centre over Maine yesterday morning. Scattered snow flurries occurred in the Lake region and the Rocky Mountain States and light rain in Nevada. Elsewhere the weather was generally fair.

It was slightly warmer in the Atlantic States, the extreme Southwest and west of the Rocky Mountains.

The approaching cold wave covered practically all the interior and reached western New York and Pennsylvania.

Zero weather extended from western Montana to Lake Huron and south to Oklahoma. The lowest reported was 40 degrees below at Havre, Mont.

In Italy the day was fair; cooler in the afternoon; wind, brisk westerly; average humidity, 80 per cent; barometer, corrected to read to sea level, at 8 A. M., 30.38; at 3 P. M., 30.72; at 6 P. M., 30.92; at 9 P. M., 31.12; at midnight, 31.32.

Lowest temperature, 28°, at midnight.

WASHINGTON FORECAST FOR TO-DAY AND TO-MORROW.

For eastern New York, New England, New Jersey, eastern Pennsylvania, Delaware, Maryland, the District of Columbia and Virginia, fair with a cold wave to day and to-morrow; fresh north westerly wind.

For western New York and western Pennsylvania, generally fair to day and to-morrow, except snow near the Lakes; colder to-day.

## ATTACK ON MILK THAT KILLS

NATHAN STRAUS CONDEMNED MISNAMED PASTEURIZATION.

He's Not Concerned Whether Milk Is Nutritive or Not as Long as the Bacteria Are Killed—Milk Committee Seems to Be Changing Its Viewpoint.

Nathan Straus, who for sixteen years has been active in distributing pasteurized milk at a minimum cost to the mothers among the poor who have babies to feed, took the floor at a meeting of specialists held under the auspices of the New York milk committee at the International Tuberculosis Exhibit in the American Museum of Natural History yesterday afternoon to inveigh against what he termed the murderous fraud of the so-called commercially pasteurized milk that is being sold in New York and elsewhere. What he had to say drew spirited responses from those in attendance, and Mr. Straus put himself in a fighting attitude immediately, ready to prove that what he said was true.

The meeting had been called by the New York milk committee to listen to the reading of papers upon the subject of the tubercular infection of milk and its prevention by six specialists in bacteriology. Mr. Straus came in late to take part in the general discussion which followed the reading of the papers. When he had the opportunity he said:

I came here to state that it is the greatest outrage to call what goes under the name of commercially pasteurized milk pasteurized milk in any sense of the word. It is merely a counterfeit—a rank and dangerous fraud. It is a milk that is sold under the name of pasteurized milk, but it is not pasteurized milk. It is a milk that is sold under the name of pasteurized milk, but it is not pasteurized milk. It is a milk that is sold under the name of pasteurized milk, but it is not pasteurized milk.

The only thing that is done to this commercially pasteurized milk is to subject it to a heat for forty seconds. Dr. Jacoby of this city assures me that forty seconds of heat is not sufficient to kill any of the germs of tubercular infection in milk.

It simply makes them dormant for a little while. Mothers had better boil their milk in the old-fashioned way than to allow this pasteurized milk, which is far from being pasteurized, to be sold in New York and elsewhere. It is a milk that is sold under the name of pasteurized milk, but it is not pasteurized milk.

Mr. Straus asked if any of those present would care to ask questions of him. J. P. Mollenhauer, who said that he knew all about what the Government had prescribed for the regulation of the milk supply in Denmark, wanted to know if Mr. Straus believed that milk subjected to a heat of 160 degrees Fahrenheit—the Danish Government regulation—even for a brief time would not be thoroughly pasteurized.

"No such thing," replied Mr. Straus. "I have had sixteen years' experience and I have sufficient authority besides for stating that a heat of 160 degrees Fahrenheit is not sufficient to kill any of the germs of tubercular infection in milk. It simply makes them dormant for a little while. Mothers had better boil their milk in the old-fashioned way than to allow this pasteurized milk, which is far from being pasteurized, to be sold in New York and elsewhere. It is a milk that is sold under the name of pasteurized milk, but it is not pasteurized milk."

Mr. Straus believed that milk subjected to a heat of 160 degrees Fahrenheit—the Danish Government regulation—even for a brief time would not be thoroughly pasteurized.

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## WILL HURRY UP TRUST CASE.

Government Wants Retrial at Once—Judge Landis Will Not Preside.

CHICAGO, Jan. 6.—Steps were taken to-day by District Attorney Sims and his assistants, following special orders from Washington, to put the Standard Oil Company on trial again within a few days in the case in which Judge Landis imposed a \$20,000 fine, which the United States Circuit Court of Appeals and the Federal Supreme Court annulled.

Notices were served upon Attorney John S. Miller by the District Attorney that a formal application to have the case set for